

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,)	CASE NO. 8:07CR443
)	
Plaintiff,)	
)	
vs.)	MEMORANDUM AND ORDER
)	
SIYAD WARSAME ALI,)	
)	
Defendant.)	

This matter is before the Court on the appeals (Filing Nos. 43 & 44) from the Magistrate Judge's order (Filing No. 42) denying a motion of defense counsel for leave to withdraw, and denying a motion of newly-retained defense counsel to continue the trial and reopen the deadline for filing pretrial motions.

Pursuant to 28 U.S.C. § 636(b)(1) the Court has reviewed the order from which these appeals have been taken. In an appeal from a magistrate judge's order on a pretrial matter within 28 U.S.C. § 636(b)(1)(A), a district court may set aside any part of the magistrate judge's order shown to be clearly erroneous or contrary to law. 28 U.S.C. § 636(b)(1)(A); NECrImR 57.2(c).

Since the Magistrate Judge issued his order, the Defendant has submitted an affidavit waiving certain rights under the Speedy Trial Act. (Filing No. 46). In light of that affidavit, the Court finds that the arguments in favor of the extension of the trial date and Mr. Gallup's request to withdraw now outweigh the Court's concern for a speedy trial of this matter. Good cause has not been shown, however, for the request to reopen the deadline

for filing pretrial motions, and the Magistrate Judge's denial of that request will be affirmed.

Accordingly,

IT IS ORDERED:

1. That the Defendant's appeal from the Magistrate Judge's Order (Filing No. 43), filed by J. William Gallup, is granted;
2. J. William Gallup is granted leave to withdraw as defense counsel;
3. The Defendant's appeal from the Magistrate Judge's Order (Filing No. 44), filed by Brent W. Nicholls, is granted with respect to Defendant's motion to continue the trial;
4. Trial in this matter is continued to **Tuesday, January 27, 2009, at 9:00 a.m.**, with the attorneys to meet with the undersigned in chambers at **8:30 a.m.**;
5. The Defendant's appeal from the Magistrate Judge's Order (Filing No. 44), filed by Brent W. Nicholls, is denied with respect to Defendant's request to reopen the deadline for filing pretrial motions; and
6. Pursuant to Defendant's Speedy Trial Waiver (Filing No. 46), the time between today's date and the trial date is excluded for purposes of computing the limits under the Speedy Trial Act.

DATED this 12th day of December, 2008.

BY THE COURT:

s/Laurie Smith Camp
United States District Judge